

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

VALLEY BOYS INC. d/b/a )  
VALLEY BOYS ROOFING, ) Case No. 8:15-cv-164  
Assignee, )  
 )  
Plaintiff, )  
 )  
v. ) JURY TRIAL REQUESTED  
 )  
SAFECO INSURANCE COMPANY, )  
OF AMERICA, incorrectly named as )  
SAFECO INSURANCE )  
 )  
Defendant. )

**NOTICE OF REMOVAL AND JURY DEMAND**  
[28 U.S.C. § 1332, 28 U.S.C. § 1441; 28 U.S.C. § 1446]

PLEASE TAKE NOTICE that Defendant Safeco Insurance Company of America (“Safeco”), incorrectly named as “Safeco Insurance,” by and through undersigned counsel and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby removes this action from the District Court of Douglas County, Nebraska, where the action is now pending, to the United States District Court for the District of Nebraska.

**BACKGROUND**

1. Plaintiff Valley Boys Inc. d/b/a Valley Boys Roofing (“Valley Boys”) initiated this suit on April 8, 2015 in the District Court of Douglas County, Nebraska against Safeco. The case is styled, “VALLEY BOYS, INC. d/b/a VALLEY BOYS ROOFING, Assignee, Plaintiff, vs. SAFECO INSURANCE, Defendant,” and is assigned Case Number CI150003111. (Complaint and Demand for Jury Trial, attached hereto as Exhibit A.)

2. Valley Boys effected service on Safeco on April 13, 2015.

3. Valley Boys alleges that nine (9) Nebraska Safeco insureds sustained covered losses to their homes in hailstorms. (Exhibit A, at ¶¶ 7, 9, 13-14.) Valley Boys further alleges that each of the alleged Safeco insureds executed “Assignments of Insurance Claim with Valley Boys.” (Exhibit A, at ¶¶ 10, 11, and “Assignment of Insurance Claim,” attached hereto as Exhibit B.)

4. Without identifying what provisions of the insurance policies were breached, Valley Boys contends that Safeco breached the alleged insureds’ policies by “failing to pay Valley Boys all benefits due and owing under the policies.” (Exhibit A, at ¶ 25.)

5. Valley Boys demands a minimum of \$77,310.83 in compensatory damages on its breach of contract count against Safeco, and Valley Boys has alleged that this amount is “likely to increase with discovery and further investigation.” (Exhibit A, at Count I WHEREFORE paragraph.)

**THIS COURT HAS DIVERSITY JURISDICTION OVER THIS ACTION**

6. The Court has diversity jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a), because complete diversity exists between the parties and the amount in controversy exceeds \$75,000.00.<sup>1</sup>

**COMPLETE DIVERSITY OF CITIZENSHIP EXISTS BETWEEN THE PARTIES**

7. Plaintiff Valley Boys is a Nebraska corporation with its principal place of business located at 10547 Bondesson Circle, Omaha, Nebraska 68123. (Exhibit A, at ¶ 5.) As a result, Valley Boys is a citizen of the State of Nebraska for diversity purposes.

8. Safeco is a foreign insurance company organized and existing under the laws of the State of New Hampshire, with its principal place of business at 175 Berkeley Street, Boston,

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<sup>1</sup> Safeco removes this action based on Valley Boys’ allegations in its Complaint, but reserves the right to challenge all aspects of those allegations.

Massachusetts 02117. Safeco is a citizen of New Hampshire and Massachusetts only, and not a citizen of Nebraska. (Affidavit, at ¶ 3, attached hereto as Exhibit C.)

9. There is thus complete diversity of citizenship between the parties. *See Cascades Dev. of Minn., LLC v. Nat. Specs. Ins.*, 675 F.3d 1095, 1100 (8th Cir. 2012) (analyzing assignee's citizenship for diversity purposes); *see also Hartford Accident & Indem. Co. v. Sullivan*, 846 F.2d 377, 382-83 (7th Cir. 1988) (holding that diversity jurisdiction existed where assignee diverse from opposing party).

#### **THE AMOUNT OF THE MATTER IN CONTROVERSY**

10. In addition to the complete diversity between Valley Boys and Safeco, this Court has jurisdiction over this action under 28 U.S.C. § 1332(a) because Plaintiff seeks damages that exceed \$75,000.00.

11. Valley Boys demands \$77,310.83 in damages in its Complaint. Thus it is facially apparent from Valley Boys' Complaint that the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. *See Bowden v. Burnham*, 59 F. 752, 755 (8th Cir. 1894) (holding that the "requisite amount and the citizenship necessary to confer jurisdiction are united in the plaintiffs; and the jurisdiction is not affected by the fact that the several assignors of the claims could not have maintained separate suits thereon, because the claim of each" did not satisfy the amount-in-controversy requirement); *see also Alpine Glass, Inc. v. State Farm Fire and Casualty Company*, Civ. No. 12-2867, 2013 WL 2434942, at \*2 (D. Minn. June 4, 2013) (holding that insureds' claims assigned to auto glass repairer properly aggregated to satisfy the amount in controversy requirement).

12. Therefore, this Court has jurisdiction of this civil action under 28 U.S.C. § 1332, in that diversity of citizenship exists within the meaning of the aforementioned statute and the

amount in controversy exceeds \$75,000.00, exclusive of interest and costs, thereby entitling Safeco to remove this action to the Federal Court sitting in the District of Nebraska. *See* U.S.C. §§ 107, 1441(a).

**SAFECO HAS COMPLIED WITH REMOVAL PROCEDURES**

13. This Notice of Removal was filed within thirty (30) days of service of Valley Boys' Complaint on Safeco. A true copy of this Notice of Removal is concurrently filed with the Clerk of the District Court of Douglas County, Nebraska, as required by 28 U.S.C. § 1446(d).

14. Copies of all process, pleadings, and orders served upon Safeco in the Douglas County action are attached hereto as Exhibit D, in accordance with 28 U.S.C. § 1446(a). There are no matters pending in the state court requiring resolution.

WHEREFORE, Defendant Safeco Insurance Company of America states that it has divested the state court of jurisdiction by filing with that court a Notice of Filing this Notice of Removal, and requests that this Court proceed with adjudication of this matter.

**DEMAND FOR A JURY TRIAL**

Defendant Safeco Insurance Company of America demands a trial by jury on all issues triable by a jury herein.

Respectfully submitted,

**SEYFERTH BLUMENTHAL & HARRIS LLC**

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*Attorney for Defendant Liberty Mutual Insurance  
Company*

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the above and foregoing "Notice of Removal and Jury Demand" was served by United States mail, postage prepaid, this 8<sup>th</sup> day of May, 2015, and via electronic mail, on:

Matthew P. Saathoff, NE Bar # 24321  
THE SAATHOFF LAW GROUP, PC LLO  
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*Attorney for Plaintiff Valley Boys, Inc.*

*/s/ Bruce A. Moothart*  
*Attorney for Defendant Liberty Mutual  
Insurance Company*